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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20054

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the matter of )  
 )  
Policies and Rules ) RM No. 8179  
Pertaining to the )  
Regulation of )  
Cellular Carriers )

To: The Commission

COMMENTS OF  
VANGUARD CELLULAR SYSTEMS, INC.

Pursuant to FCC Public Notice Report No. 1927, dated February 17, 1993, Vanguard Cellular Systems, Inc. ("Vanguard") submits the following Comments to the Request for Declaratory Ruling and Petition for Rulemaking (the "Request and Petition") submitted to the Commission on January 29, 1993 by the Cellular Telecommunications Industry Association ("CTIA"):

1. Vanguard is the third largest purely non-wireline cellular telephone system operator in the United States, owning or controlling the Federal Communications Commission ("FCC") non-wireline licenses in 21 MSA's and RSA's on the East Coast (the "Vanguard Markets"), and serving approximately 100,000 subscribers. Vanguard's stock is publicly traded on the NASDAQ National Market System. Vanguard is a member of CTIA, which is the trade association of the cellular industry.

2. Vanguard supports CTIA's request that the Commission issue a declaratory ruling (a) reaffirming the continuing validity of its policy that because of the essentially intrastate

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nature of cellular service, cellular carriers are not required to file Federal tariffs for services governed by Section 221(b) of the Communications Act of 1934 (the "Act"), (b) that cellular carriers engaged in interstate communication exclusively through interconnection with the facilities of unaffiliated interexchange carriers are subject to the tariff filing exception applicable to connecting carriers, and (c) that cellular carriers are non-dominant. Vanguard also supports CTIA's request that the Commission initiate a rulemaking proceeding to adopt rules which would relieve cellular carriers of the obligation to submit any data except copies of their rate schedules for interstate services, and to amend Sections 61.58(b) and 61.59 of the Rules to eliminate the notice period for cellular tariffs and to permit tariff amendments at any time.

3. Cellular service is essentially intrastate and should not be subject to the FCC's tariffing jurisdiction. A substantial majority of the calls made on Vanguard's cellular systems in the Vanguard markets are intrastate. These facts support the Commission's existing position that cellular service is essentially local in nature and only incidentally interstate, and pursuant to Sections 2(b) and 221(b) of the Act, is reserved to state jurisdiction and is not subject to the federal tariffing requirements.

4. Almost all of the interstate calls made on Vanguard's cellular systems in the Vanguard markets are handed-off to an interexchange carrier unrelated to Vanguard (approximately 95%). Therefore, in this regard Vanguard is a connecting carrier, and

again, the Federal tariffing requirements should not apply to these calls.

5. Vanguard supports CTIA's position that traditional roaming services should be treated the same as the services offered to a carrier's own customers, and should not be subject to the Federal tariffing requirements. These roaming customers are receiving essentially the same local services provided to the carrier's own customers. Although the agreement which allows for the roaming may be between carriers providing local service in different states, it is merely a billing and collection arrangement and not a common carrier offering.

6. The Commission should confer non-dominant status on cellular carriers. The competitive nature of the cellular market is clear. The Commission's decision to license two carriers in every market has resulted in a highly competitive cellular market. A review of the advertising in any MSA or RSA confirms the aggressive competition that takes place between cellular carriers. This competition has led to increased services and reduced prices. In addition, as set forth in the Request and Petition, there are numerous services which serve as alternatives to cellular. The existence of a competitive cellular market environment and the primarily local nature of cellular service support a finding that cellular carriers are non-dominant.

7. Vanguard supports CTIA's request that Section 61 of the Rules be modified to allow cellular carriers to submit tariffs which set forth rates within a prescribed minimum and maximum level. Due to the competitive nature of cellular service,

carriers need to be in a position to respond quickly to market forces by implementing new rate plans and service packages. If carriers were forced to delay offerings during a waiting period after a rate change filing, the public would suffer by having to wait to take advantage of new, competitive rate plans and service packages.

WHEREFORE, Vanguard respectfully supports the Request and Petition and urges expeditious action by the Commission thereon.

Respectfully submitted,

VANGUARD CELLULAR SYSTEMS, INC.

Date: March 18, 1993

By:



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By:



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